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TESTIMONY IN FAVOR OF ASSEMBLY BILL 208

Good morning Mr. Chairman and committee members and thank you for holding this hearing today on Assembly Bill 208.

I think it's fitting that you are holding this hearing on St. Valentine's Day, a day we set aside to express our love to those who are close to us. Because this evening as families sit down to dinner across Wisconsin there will be some empty seats at the table-maybe a missing father, mother or child. All killed by drunk drivers who rob families of their loved ones and bring promising lives to an untimely end. This has got to stop!

We have a serious problem in our state with repeat drunk drivers. Hardly a week goes by that we don't hear of someone arrested for the third, fourth or fifth time, sometimes even for the eighth or ninth time. Eventually these impaired drivers run into something or someone, usually an innocent victim who just happened to be in the wrong place at the wrong time.

This bill is an attempt to address this problem by increasing the third conviction for OWI to a felony, the fourth conviction to a felony in all cases, and raising the felony level by one category for all convictions fifth and above.

The goal here is not to put more people in jail, but to provide a deterrent for those who insist on getting behind the wheel while intoxicated. Anyone can make a mistake, but when the same mistake is made over and over it's no longer a mistake, but a pattern of bad behavior. And when that bad behavior destroys lives it becomes a disaster.

Now I know that this one bill or any other bill is not going to stop a problem that we've had in Wisconsin for a long, long time. But it is a step, and any step in the right direction is welcome. Last session the Legislature passed a drunk driving package that showed we are serious about addressing this issue. This bill keeps us moving in the right direction.

I don't consider this bill a final step, but rather an important step in an ongoing process. I also realize that this bill will not repair any of the damage already inflicted by repeat drunk drivers. But maybe, just maybe, if we continue to show we are serious in Wisconsin about making our roads safer we will reach a point sometime in the future when driving while impaired will be a thing of the past.

We can't eliminate a long term problem with one change in the law, so I am going to keep working on this issue whether or not this bill passes. I ask the committee chair and members to please send this bill to the full Assembly and send a strong message that anyone who insists on driving drunk will have to pay the consequences of their actions.

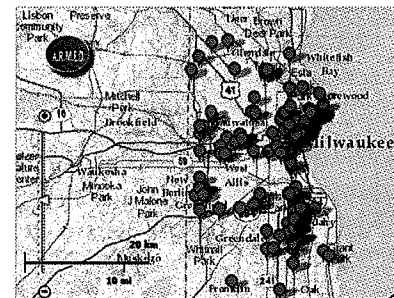
Again thank you for holding this hearing today, and I will be glad to answer any questions.



David A. Clarke, Jr.
Sheriff

County of Milwaukee

Office of the Sheriff



Date: Tuesday, February 14, 2012
To: Representative Jerry Petrowski, Chairman
Assembly Committee on Transportation
From: Edward H. Bailey, Inspector
Re: Support of AB 208 (OWI Penalties)

Chairman Petrowski:

Thank you for the opportunity to address the Committee this morning, I come to voice the support of Sheriff David A. Clarke Jr., of Milwaukee County, to the efforts of Milwaukee-area delegation Members Representative Jim Ott of the 23rd District and Senator Alberta Darling of the 8th District in their steadfast efforts to increase the penalties for drunk driving here in Wisconsin.

In 2006, Sheriff Clarke sensed a storm gathering strength. As we have discussed many times in reference to OWI enforcement, Wisconsin stands alone among the nation's states in maintaining an OWI first-offense as a non-criminal traffic violation, and is one of only 11 states prohibiting sobriety checkpoints entirely. To gain a national perspective, he sent members of his staff to that year's MADD/NHTSA Law Enforcement Leadership Summit of non-OWI checkpoint states, in New York City. Based in large part on the information sharing and data discussed at that event, a core group, under the control of Wisconsin DOT's Bureau of Traffic Safety (BOTS) Major Daniel Lonsdorf, convened a similar state summit in 2007, in the Dells. Their purpose was to bring the message of both checkpoints and national OWI enforcement efforts to the attention of Wisconsin legislators, law enforcement and prosecutors. In 2008, this group again met, in Arlington, Texas, to discuss how to bring OWI change to this state. That year, the time meetings passed.

Sheriff Clarke sent members of our patrol division to the City of Orange, California, to shadow Officer Armando Plasencia, who, in a one-year period, made 325 OWI arrests. Clearly, there was something to be learned here; a better way to enforce OWI laws. In January 2008, we started our current OWI initiative in Milwaukee County. By dedicating officers to this crime and deploying them in a data-driven, focused manner, in the first six months of 2008 we increased our OWI arrest rate by over 63% (860 arrests YTD as compared to 525 at the same time in 2007.)

In the four years since, the MCSO has been stable in over 1000 OWI arrests in Milwaukee County...until last year. Until, in our opinion, Act 100.

The table below depicts the OWI cases for the Milwaukee County Sheriff for 2008 - 2011•

	OWI 1 st	OWI 2 nd	OWI 3 rd	OWI 4 th	OWI 5 th +	OWI Drug	Total OWIs
2008	1138	91	38	9	9	33	1318
2009	1046	209	85	22	15	25	1402
2010*	963	178	73	17	11	39	1281
2011	691	129	48	25	8	32	933
Change	-28%	-28%	-34%	+47%	-28%	-18%	-28%

• Act 100 Effective 01/01/2010 - Main Change of Act 100 = A fourth offense Operating While Intoxicated (OWI) became a felony if it occurs within five years of an earlier offense.

The proposed legislation makes a key change to the current OWI law.

Offense	Current	Proposed
OWI 3 rd	45 - 360 days	H 45 - a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.
OWI 4 th *	60 - 360 days *4 th w/in 5 years = H 180 - a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.	H 60 - a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

As an over thirty-three year law enforcement professional, Sheriff Clarke consistently reminds us that we cannot arrest our way out of this problem. An OWI arrest has immediate value, as it takes a drunk off the road. But to the extent that the arrest doesn't result in a meaningful adjudication of the matter through the sentencing stage, and to the extent that our OWI enforcement efforts clearly aren't resulting in the culture change that we need in this state, We privately characterize these efforts as a failing strategy. Arrest has its place, but as part of a multi-pronged attack: education, treatment, prosecution, and the part that we are most markedly failing at, deterrence. Patrolling and arresting drunks is expensive and time consuming. As a rule, we don't like playing hide-and-seek games with criminals. It is intolerable when our citizen's lives are in the balance.

In 2006, the year Sheriff Clarke focused his eyes on drunk driving, the average positive alcohol concentration test in Wisconsin was a staggering .17 AC.* In the past five years, we have consistently signaled our support for sobriety checkpoints, the expanded use of ignition interlock devices in OWI-related sentencing, and generally enhanced penalties for OWI offenses. We continue to do so today.

We at the MCSO are lucky that our leader, as sheriff, an elected official, represents the *public's* interest in matters such as these. We have seen firsthand the carnage. We meet with the survivors of these tragedies, as we know that you in the legislature have. We in Milwaukee have familiar names that have become the faces of this suffering over the past few years:

April, 2008 *Jennifer Bukosky*, murdered along with her 10-year-old daughter, Courtney, and her unborn daughter, Sophia. Her 12-year-old son, Zachary, was gravely injured as well.

January, 2011 *Corrie Damske*, killed on New Year's morning in 2011 when Leopoldo Salas-Gayton, drove the wrong way near Miller Park, hitting two cars with a blood alcohol level at .14.

March, 2011 And just last week 19-year old Jasmine Lyboulalong, the suspected drunk driver that hit and killed *Michael Grabowski* as he tended to a man injured in another crash, pleaded no contest to two felony charges, homicide by negligent operation of a vehicle, and reckless driving--causing great bodily harm, in a case in which she had admitted to drinking four beers at a bar prior to the crash.

Respectfully Submitted:

Edward H. Bailey, Inspector
Milwaukee County Sheriff's Office

* WisDOT, BOTS, Policy Analysis and Local Programs, 2006



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MEMORANDUM

TO: Honorable Members of the Assembly Transportation Committee

FROM: David Callender, Legislative Associate *DC*

DATE: February 14, 2012

SUBJECT: Assembly Bill 208, Relating to Penalties for Operating-While-Intoxicated Offenses

The Wisconsin Counties Association (WCA) wishes to express its concerns regarding Assembly Bill 208, which increases the penalties for third and fourth-offense operating-while-intoxicated convictions.

WCA views drunken driving as an extremely serious offense that endangers public safety. In recent years, Wisconsin counties have developed numerous programs to prevent drunken driving and reduce recidivism. Many of these programs have successfully reduced repeat offenses.

The WCA platform adopted by the WCA Board of Directors and the WCA Annual Conference Delegates takes no position on increasing the penalties for drunken-driving offenses. However, the platform is clear that any costs associated with increasing the penalties for drunken driving should be borne by the state, not by counties.

It is on this basis, therefore, that WCA must express its deep concern regarding the increase of penalties proposed in Assembly Bill 208. Although the bill does not increase the minimum confinement penalties for third and fourth-offense drunken driving, the Department of Corrections, in its fiscal note, observes that the increase in maximum confinement penalties could prompt some judges to impose longer jail sentences on offenders.

The Department states that it is "not possible to predict what the sentencing practices of judges will be in these cases, how much of an increase will occur in the confinement time ordered, and whether the increase will result in more county jail confinement time or a reduction in county jail confinement time when these offenders are now sentenced to prison terms."

WCA respectfully requests the Committee to support increased funding to counties if there are additional costs resulting from this increase in penalties.

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Courtney Bella

APRIL 2008



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The Courtney Bella Foundation

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Imagine a day . . .
When nothing can hurt or scare you
where everything impossible is possible.

Imagine a day . . .
When the beating of your heart
and your voice
is all you hear.

Imagine a day . . .
When the twinkling
of the night time stars
is the only thing visible.

Imagine a day . . .
When you take a nap
floating on the clouds
dreaming about
all the good in your life.

Imagine a day . . .
When the only thing
you want to do
is fill an empty page with words
writing your story.

Imagine a day . . .
When you become best friends
with the moon
sharing its night time splendor.

Imagine a day . . .
When all you want to do
is wonder and think
wonder and think
just imagine . . .